

**BEFORE THE
DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION**

AND

**DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE**

In the Matter of)	
Broadband Initiatives Program and)	Docket No. 0907141137-91375-05
Broadband Technology Opportunities Program)	

**COMMENTS OF THE NATIONAL
RURAL ELECTRIC COOPERATIVE ASSOCIATION**

EXECUTIVE SUMMARY

It is widely recognized that providing broadband access to rural residents is a key to the economic health, development and sustainability of rural America. Broadband Technology Opportunity Program (“BTOP”) and Broadband Initiatives Program (“BIP”) project applications that would further these goals and maximize broadband to the greatest proportion of unserved and underserved rural America should be encouraged. Therefore, we urge the Department of Commerce National Telecommunications and Information Administration (“NTIA”) and the Department of Agriculture’s Rural Utilities Service (“RUS”) to coordinate the BIP and BTOP programs so that rural projects are not disadvantaged by having to apply to RUS first, be rejected, and then referred to NTIA. The National Rural Electric Cooperative Association (“NRECA”) further requests that RUS shift its focus from making loans, as it has traditionally done under most of its Rural Electrification Act funding authority, to an 80 percent grant BIP program. Lastly, NRECA urges the Agencies to refine key definitions as outlined in these comments to help ensure that more high quality applicants will apply and more worthwhile projects will be funded.

INTRODUCTION

NRECA is the not-for-profit, national service organization representing nearly 930 not-for-profit, member-owned rural electric cooperatives systems, which serve 42 million customers in 47 states. Rural electric cooperatives (“Cooperatives” or “Co-ops”) employ approximately 70,000 people in the United States, serving 18 million businesses, homes, schools, churches, farms and other establishments in 2,500 of the 3,141 counties in the U.S.

A number of NRECA member Cooperatives already provide telecommunications, dial-up Internet access and broadband services to rural consumers over a variety of platforms, including satellite, WiFi or WiMAX, Fiber and Broadband over Power Line. Co-ops also provide high-speed and robust connections to institutions such as schools, libraries and hospitals, as well as to business customers. Several NRECA member Cooperatives, either individually or through consortiums, applied for first round stimulus funding in order to deploy or enhance their broadband networks and services to rural, low-density areas that commercial providers may view as insufficiently profitable.¹

In 1986, NRECA and the National Rural Utilities Cooperative Finance Corporation founded the National Rural Telecommunications Cooperative (“NRTC”) to find, commercialize and deliver advanced telecommunications and technological innovations to the family of rural cooperatives. NRTC is a non-profit cooperative² that has helped its rural telephone and electric cooperative members provided advanced telecommunications services to rural America since its inception. A number of Cooperatives who are both NRTC and NRECA members applied for the first round of BTOP/BIP funding. Due to a shared desire to improve the

¹ NRECA filed comments on April 13, 2009 in response to the Department of Commerce and the Department of Agriculture’s First Joint Request for Information regarding the broadband initiatives of the Recovery Act, Docket No. 090309298-9299-01 (“NRECA First Round Comments”).

² www.nrtc.coop

economic and educational opportunities currently eluding rural Americans due to the lack of advanced broadband services, NRECA is generally supportive of the NRTC comments filed in this proceeding.

Based upon the experiences of its members in applying for the first round of funding, NRECA submits its comments to the NTIA and RUS in response to the Second Joint Request for Information and Notice of Public Meeting (“Joint Request for Information”) regarding implementation of the second round funding of broadband initiatives of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 11-5, 123 Stat. 115 (2009) (“Recovery Act”).³ RUS and NTIA shall be referred to collectively in these comments as the “Agencies.”

THE APPLICATION AND REVIEW PROCESS

NRECA commends NTIA and RUS for inviting comment to improve the processes and policies of the BTOP and BIP, their respective Recovery Act broadband initiatives. Based upon applicant volume alone, the initial round of broadband funding was wildly successful – a testament to the coordinated efforts and outreach process of the Agencies. NRECA supports further streamlining and simplification of the application process, but cautions against unduly reducing the amount of information required of the applicants. Continuing to require similar first round information provides some assurances that the applicant has conducted the appropriate due diligence to ensure the proposed broadband project is feasible. Further, applicants and consultants alike are now at least somewhat familiar with the application process. Significant deviation from the first round application process may require additional rounds of significant public outreach by the Agencies when time is short.

³ Broadband Initiatives Program and Broadband Technology Opportunities Program, Joint Request for Information, 74 *Fed. Reg.* 58,940 (Nov. 16, 2009).

Due to the consolidation of the second and third funding phases, the Agencies should expect that a large number of applicants will participate in this final round. Without changes, however, the online filing system will once again be considerably strained. As evidenced by the application upload problems in the initial funding round, the Agencies' servers were incapable of handling the high volume of applications. One major drawback of the insufficiency of the filing system was that some applicants were unable to file supplemental letters of recommendations, spreadsheets, maps and other relevant or required information that may have assisted the Agencies in the evaluation of the submissions. Therefore, the Agencies should provide a downloadable PDF-based application that can be completed off-line and uploaded with additional PDF attachments to minimize the strain upon the Agencies' application servers. Additionally, although the census block data calculation tool was a welcome surprise, Cooperatives found the mapping program provided by the Agencies difficult to utilize. If the Agencies require the use of the same mapping program, there should be greater outreach effort to train applicants on its usage.

1. Relationship between BIP and BTOP.

The RUS should devote the remainder of its funding authority to match the 80 percent broadband grants already being offered by NTIA.⁴ By offering 80 percent grants as opposed to a grant and loan combination, RUS will likely see an improvement in the number of quality applicants seeking to provide broadband access to rural, low-density areas that may have previously been viewed as insufficiently profitable to attract necessary investment. As RUS itself has acknowledged that "it has struggled to find an effective way to use the Agency's

⁴ NRECA First Round Comments at p. 15.

current broadband loan program to provide broadband access to rural residents who lack such access.”⁵

Rural broadband projects may have been disadvantaged by the first round funding requirement that such projects first be considered by RUS, and only processed by NTIA if RUS declined to fund the rural broadband project. Applicants should have the ability to apply to both NTIA and RUS when their broadband project proposals meet the eligibility requirements of both BTOP and BIP. Second round applicants should not have to wait for RUS to reject the application before it can be considered by NTIA. Nor should an otherwise qualified rural broadband project be preempted from 80 percent NTIA grants solely because RUS first chooses to provide fewer federal dollars for the project.

In providing loans rather than grants, the Agencies must be assured that the proposed broadband project will generate sufficient revenue to repay the loan. Historically, broadband has not been deployed in low population, low income rural areas because the return on investment is not sufficient to maintain the service, much less repay outstanding loans. While well intentioned, the concept of providing grant/loan combinations instead of grants may have deterred quality applications to provide broadband access to the most economically difficult to serve rural communities. Rural communities require cost-efficient business models to be successful and to pass along the lowest-cost service to rural consumers.⁶ NRECA believes that offering a full 80 percent grant for the initial investment would provide the “leg up” needed to launch worthwhile rural projects.

⁵ NRECA notes the RUS testimony before the House of Representatives Committee on Energy and Commerce on April 2, 2009 where David Villano, RUS Assistant Administrator, also acknowledged past problems with the broadband loan program but stated RUS was aggressively working on regulations to ameliorate the process. Available at http://www.energycommerce.house.gov/Press_111/20090402/testimony_villano.pdf.

⁶ The median per capita income of electric Co-op consumers is \$21,435 – 21% lower than the national average. The average per capita income of consumers in the service areas of 93% of the nation’s electric Co-op is below the U.S. national average of \$27,260.

2. Transparency and Confidentiality.

NRECA supports the transparency objectives of the Recovery Act. However, NRECA agrees with NRTC that the Agencies should be sensitive to the proprietary nature of certain information that may be included in a full executive summary to a funding application. Executive summaries to applications of other Recovery Act stimulus programs, such as the Smart Grid demonstration and investment grants, were not made available in a public database. (In fact, the Department of Energy did not even release a list of all applicants for these funding programs.) To ensure that proprietary information was not disclosed, BIP and BTOP applicants either had to carefully redact their executive summaries or not include a summary at all. In fact, a search of Broadband USA's applications database indicates that several applications were filed without an executive summary. Otherwise, the balance of the information contained in the database is quite helpful to the general public concerned with the application of the broadband initiatives. Therefore, NRECA urges the Agencies to balance the legitimate confidentiality needs of applicants with the level of transparency necessary to further the public interest.

3. Outreach and Support.

NRECA commends the Agencies for their aggressive outreach efforts beginning with the initial public meetings and continuing through the application process. However, more advance notice of any future workshops would be helpful. Workshops held within days of their announcements make attendance difficult for those not residing in the immediate vicinity. NRECA would also urge the Agencies to consider making such outreach workshops available via webinar, as the Agencies did when first seeking input to craft the first round funding application process and criteria.

POLICY ISSUES

1. Improving Definitions

If the BIP and BTOP goals are to expand broadband access and adoption in America, to help create jobs and to stimulate long-term economic growth and opportunity in the areas of the country that need them most, then the Agencies should err on the side of defining terms inclusively rather than exclusively. Definitions that are overly exclusive run the risk of disqualifying worthy projects from eligibility. As the Agencies are well aware, the definition of the term “remote” for purposes of making RUS grants was so restrictive that few communities in the country could meet the definition. The goal of any modifications to the key definitions should be to make more communities eligible for funding that lack any broadband service or have only inadequate service. With the second and third funding rounds reduced to a single, final round, NRECA believes the Agencies should modify the core definitions where appropriate.

a. Underserved.

NRECA recommends that “unserved areas” be defined as areas without any broadband access, e.g., areas without Internet access service at transmission speeds of at least 768 kbps in either direction; and that “underserved areas” be defined as areas with some level of access, but which level of access is inadequate, e.g., where residential dwellings are without access to at least one Internet Service Provider offering transmission speeds of at least 3 Mbps downstream and 768 kbps upstream. NRECA further poses that pursuant to these definitions there should a presumption that all counties designated as “rural” are “unserved” or “underserved.”⁷

⁷ NRECA First Round Comments at p. 13.

b. Remote.

The Agencies' experience with the first round of funding necessitates the adoption of a less restrictive definition of "remote." The current definition disqualified worthwhile projects. Based on the application data collected from the first round, the solution could be as simple as reducing the distance from a non-rural area from 50 to 25 miles.⁸ Alternatively, the Agencies could establish a tiered methodology for scoring the degree of a broadband project's "remoteness." As suggested by International Broadband Electric Communications, Inc. in its comments, points could be awarded for serving areas as little as 10 miles away from a non-rural area.⁹ Projects would then be awarded additional points for each subsequent 10 miles of distance from a non-rural area. Employing such criteria would ensure more communities are considered "remote" for the purposes of grant eligibility while providing the Agencies a mechanism for ranking the degree of remoteness of competing projects.

c. Broadband.

As an initial matter, the FCC definition of "broadband" should be maintained: "advanced communications systems capable of providing high-speed transmission of services such as data, voice and video over the Internet and other networks."¹⁰ While NRECA understands that faster broadband data speeds are obviously better (and indeed some of Co-ops are providing optimal speeds) it does not believe that there should be threshold or hard-line data speed standards – especially for BIP or BTOP purposes. The Agencies should remain free to fund broadband projects at optimal speeds to the extent the Agencies receive such proposals. However, rural

⁸ Joint comments of NRTC and DigitalBridge Communications Corp., *Broadband Initiatives Program and Broadband Technology Opportunities Program*, Docket No. 0907141137-91375-05.

⁹ Comments of the International Broadband Electric Communications, Inc., *Broadband Initiatives Program and Broadband Technology Opportunities Program*, Docket No. 0907141137-91375-05.

¹⁰ www.fcc.gov/broadband (last viewed November 30, 2009). *See also* 47 U.S.C. Section 1302 (d)(1) (where "advanced telecommunications capability" is defined).

consumers should not be precluded from lower speed broadband if it is the only feasible technological solution for their communities. As NRECA posited in its initial comments, broadband speed is relative to the area of service.¹¹ Definitions should remain sufficiently flexible to ensure difficult to serve areas are not precluded from service by the adoption of “one size fits all” threshold speeds. There are rural areas where terrestrial service is not an option (because of topography, climatic or other conditions) and where satellite service may be the only feasible choice for service.

CONCLUSION

NRECA appreciates the opportunity to comment on the Agencies’ Joint Request for Information and looks forward to participating in the continuing dialogue on the important subject of broadband deployment for all.

Respectfully submitted,

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION

/s/ Wallace F. Tillman

Wallace F. Tillman
Vice President, Energy Policy & General Counsel

Tracey B. Steiner
Senior Corporate Counsel

David N. Predmore
Corporate Counsel

National Rural Electric Cooperative Association
4301 Wilson Boulevard
Arlington, VA 22203-1860

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¹¹ NRECA First Round Comments at p. 14.